



March 12, 2019

VIA ECF

Hon. Michael A. Hammer, U.S.M.J.
U.S. District Court for the District of New Jersey
Martin Luther King, Jr. Federal Building & U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07101

**RE: *Merck & Co., Inc., et al. v. Merck KGaA,*
Civil Action No. 16-0266 (ES) (MAH)**

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Dear Judge Hammer:

This firm, along with Sidley Austin LLP, represents Plaintiffs Merck & Co., Inc. and Merck Sharp & Dohme Corp. ("Plaintiffs") in the above-referenced matter. We submit this letter pursuant to Your Honor's Order at the status conference in this matter on March 5, 2019.

Plaintiffs have determined that both of the witnesses who left the Company since the start of fact discovery—Adele Donohue and Kelley Dougherty—are currently located within the subpoena power of the Court.

Plaintiffs have contacted Defendant to meet and confer about the witness dispute and to identify a convenient date for Adam Schechter's deposition. If the parties are unable to reach agreement on this issue, Plaintiffs respectfully request the opportunity to address in writing the basis for their request and the application of the relevant factors to this dispute.

Thank you for your consideration of this matter.

Respectfully submitted,

s/John E. Flaherty

John E. Flaherty

cc: Counsel of Record (via email)

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